

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 3RD JULY 2007 / 12TH ASHADHA 1929

WP(C).No. 27547 of 2005(D)

PETITIONERS:

- 1. SHIPPING & NAVIGATION WORKERS UNION
(AITUC), TRADE UNION HOUSE, CANNON SHED ROAD,
KOCHI 31. REPRESENTED BY ITS GENERAL SECRETARY,
K.VIJAYAKUMAR.**
- 2. KSINC, EMPLOYEES FEDERATION (INTUC),
KSINC FERRY TERMINAL ERNAKULAM, REPRESENTED
BY ITS GENERAL SECRETARY, K.P.HARIDAS.**
- 3. KSINC EMPLOYEES ASSOCIATION,
KSINC FERRY TERMINAL ERNAKULAM (CITU),
REPRESENTED BY ITS GENERAL SECRETARY,
K.Y.MEHBOOB.**

BY ADV. SRI.DEEPU THANKAN.

RESPONDENTS:

- 1. KERALA SHIPPING & INLAND NAVIGATION
CORPORATION LTD., GANDHI NAGAR, COCHIN 20,
REPRESENTED BY ITS MANAGING PARTNER.**
- 2. STATE OF KERALA, REPRESENTED BY ITS
SECRETARY TO GOVERNMENT, COASTAL SHIPPING &
TRANSPORT DEPARTMENT, GOVERNMENT SECRETARIAT,
TRIVANDRUM.**

**BY ADV. SRI.VAKKOM N.VIJAYAN,SC,KS & INC LTD.,
GOVT. PLEADER SRI. P. NANDAKUMAR.**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 03/07/2007,ALONG WITH W.P.(C). NO. 14623/2007 AND CONNECTED
CASES, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

W.P.(C). NO.27547/2005:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P.1: COPY OF THE LIST OF PUBLIC SECTOR UNDERTAKING WITH THE AGE OF RETIREMENT PUBLISHED IN THE YEAR 2002-2003.

EXT.P.2: COPY OF THE NOTICE DTD. 07/06/2005.

EXT.P.3: COPY OF THE EXTRACT FROM THE MINUTES ON 24/08/1995.

EXT.P.4: COPY OF THE REPRESENTATION DTD. 12/06/2004.

EXT.P.5: COPY OF THE COVERING LETTER DTD. 03/08/2004.

EXT.P.6: COPY OF THE COMMUNICATION DTD. 08/12/2004.

EXT.P.7: COPY OF THE ORDER DTD. 20/06/2003.

EXT.P.8: COPY OF THE IMPUGNED ORDER DTD. 12/08/2005.

EXT.P.9: COPY OF THE IMPUGNED ORDER DTD. 31/08/2005.

EXT.P.10: COPY OF THE ORDER IN W.P. NO. 25888/2005 DTD. 31/08/2005.

RESPONDENT'S EXHIBITS: NIL.

//TRUE COPY//

prv.

K.BALAKRISHNAN NAIR, J.

**W.P.(C) No.27547 & 32604 of 2005,
11794 & 28430 & 29560 of 2006,
2629, 2630,, 5239 & 14623 of 2007**

Dated this the 3rd day of July, 2007.

JUDGMENT

The petitioners in these writ petitions are employees of the Kerala Shipping and Inland Navigation Corporation Limited (for short 'the Corporation'). Some of them have retired during the pendency of these writ petitions.

2. The claim raised by them in these writ petitions is regarding enhancement of retirement age. For convenience, the exhibits marked in W.P.(C)No.14623/07 are referred to in this judgment.

3. The Management of the first respondent Corporation, by Ext.P4 dated 24.8.1995, decided to enhance the retirement age of the employees from 55 to 58 years. The Government was moved to give sanction for amending the service rules correspondingly. After several representations from the side of the employees, their unions and the Management of the Corporation, finally, the Government rejected the said motion by Ext.P6. A motion for review was

made before the Government. The same was dismissed by Ext.P13. So, the petitioners seek to quash Exts.P6 and P13 and also pray for consequential reliefs. Relying on Ext.P14 judgment, the petitioners point out that all the contentions taken by the Government, against the enhancement of retirement age of the employees of the Kerala State Beverages, Manufacturing and Marketing Corporation Limited, have been rejected by a Division Bench of this court. The petitioners also rely on a judgment of this court dated 6.6.2007 in W.P.(C)No.12768/06 and connected cases. Therefore, they pray that all the reliefs sought for in these writ petitions may be granted.

4. The Corporation has filed a counter affidavit in the connected writ petition [W.P.(C)No.2629/07] stating that it has already decided to enhance the retirement age. Only because of the decision of the Government, it cannot be implemented, it is submitted.

5. The Government have filed a counter affidavit in W.P.(C)No.2630/07. According to the Government, if the retirement age of the employees of the Corporation is

enhanced, it will have a chain reaction and all other employees of similar Corporations will also raise the very same demand.

6. Heard learned counsel on both sides.

7. In almost all the Government companies and Corporations, where the employees are not eligible to get monthly pension, the retirement age has been enhanced to 58 years, so that they could draw pension from the pension scheme under the Employees' Provident Fund and Miscellaneous Provisions Act. Further, I am bound by the judgment of the Division Bench of this court, which is produced as Ext.P14. I am in respectful agreement with the decision of the learned single Judge in W.P.(C)No.12768/06 and connected cases dated 6.6.2007 also. Thus the claim of the petitioners is squarely covered by those judgments.

In view of the above position, the writ petitions are allowed and Exts.P6 and P13 are quashed. All the employees shall be allowed to continue in service till the last day of the month in which they attain the age of 58 years. Those writ petitioners, who retired during the pendency of

W.P.(C) No.27547/05 & con. cases.

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these writ petitions for want of interim orders, shall also be reinstated in service and allowed to continue to work till they attain the age of superannuation of 58 years. But they shall not be eligible to get arrears of salary for the period during which they were out of service.

Sd/-

(K.BALAKRISHNAN NAIR)
JUDGE

sk/

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